

**LAO PEOPLE'S DEMOCRATIC REPUBLIC**  
**Peace Independence Democracy Unity Prosperity**

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PRIME  
No 01 / PM

MINISTER'S

OFFICE

**DECREE**  
**ON PATENT, PETTY PATENT AND INDUSTRIAL DESIGNS**

Based on the law on the promotion and management of foreign investment in the Lao People's Democratic Republic dated March 14, 1994;  
Based on the law on civil procedure dated November 29, 1990;

Based on the law on the promotion and management of foreign investment in the Lao People's Democratic Republic dated October 14, 1995;

On the proposal of the Science, Technology and Environment Agency Number 339 / STEA dated March 2, 2000.

**The Prime Minister decrees:**

**SECTION I**  
**GENERAL PROVISIONS**

**Article 1:** This Decree is promulgated to provide protection to patents, petty patents and industrial designs in the Lao People's Democratic Republic; to encourage invention, technology transfer, scientific and technological research and development; to stimulate and promote internal and external commerce and investment, and to combat the infringement of industrial property rights and illegal business practices.

**Article 2:** The government of the Lao People's Democratic Republic manages and protects patents, petty patents and industrial designs on the basis of laws and regulations.

**Article 3:** Any patent, petty patent and industrial design can be protected in case of which have been registered in the Lao People's Democratic Republic or with international registry in which the Lao People's Democratic Republic is bound.

**Article 4:** An individual or legal entity having and from foreign countries engaged in lawful scientific research, production, commercial and service activities shall be entitled to register invention, device and industrial design in the Science Technology and Environment Agency or with international registry established by any convention in which the Lao People's Democratic Republic is bound.

An individual or legal entity of foreign countries requesting to register invention, device and industrial design in the Lao People's Democratic Republic may have a representative authorized in the Lao People's Democratic Republic.

**Article 5:** The owner of a patent, petty patent or industrial designs, before allowing another person to use such patent, petty patent or industrial designs in the Lao People's Democratic Republic, shall notify in a written declaration the Science, Technology and Environment Agency.

Any individual and legal entity, before using patent, petty patent or industrial design which has been protected in the Lao People's Democratic Republic, must be authorized by the owner.

The exploitation of a patented invention, device or industrial design in the Lao People's Democratic Republic by persons other than the owner of the patent, petty patent or industrial design shall require the latter's agreement.

## **SECTION II PATENT**

**Article 6:** For the purpose of this Decree a “ patent ” means the title granted to protect an invention whereas an “ invention ” means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology.

**Article 7:** Any invention shall be entitled to protection if it is new, involves an inventive step and is industrially applicable.

Any invention is new if it is not anticipated by prior art which shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to filing or, where appropriate, the priority date, of the application claiming the invention.

Any invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the application claiming the invention, it would not have been obvious to a person having ordinary skill in the art.

Any invention shall be considered industrially applicable if it can be used in any kind of industry, handicraft, agriculture, fishery and services.

**Article 8:** An individual and legal entity shall have the right to a patent in the case of the invention which has been registered by the Science, Technology and Environment Agency or international registration body to which the Lao People's Democratic Republic is bound.

**Article 9:** The right to a patent shall belong to the inventor.

- If two or more persons have jointly made an invention, the right to a patent shall belong to them jointly.

- If and to the extent to which two or more persons have made the same invention independently of each other, the person whose application has earliest filing date or, if the priority is claimed, the earliest validly claimed priority date shall have the right to the patent, as long as the said application is not withdrawn, abandoned or rejected.

- Where an invention is made in execution of an employment contract, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer.

The inventor shall be named as such in the patent, unless in a special declaration signed by him and addressed to the relevant registry he indicates that he wishes not to be named. Any promise or undertaking by the inventor made to the person to the effect that he will make such a declaration shall be without legal effect.

**Article 10:** The following inventions shall be excluded from patent protection: discoveries, scientific theories and mathematical methods, schemes, rules or methods for doing business, performing purely mental acts or playing games, methods for treatment of the human and animal body, inventions which are contrary to the public order or the national cultural morality.

**Article 11:** The application for a patent shall be filed with the Registry and shall contain: a request, a description, one or more claims, one or more drawings where required and an abstract.

- The request shall contain a petition to the effect that a patent be granted, the name of and other prescribed data concerning the applicant, the inventor and the agent, if any and the title of the invention. Where the applicant is not the inventor, the request shall be accompanied by a statement justifying the applicant's right to the patent.

- The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person having ordinary skill in the art, and shall, in particular, indicate at least one mode known to the applicant for carrying out the invention.

- The claim or claims shall define clearly and concisely the matter for which the protection is sought and shall be supported by the description.

- Drawings shall be required when they are necessary for the understanding of the invention.

- The abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for the purpose of interpreting the scope of the protection.

The applicant may, up to the time when the application is in order for grant, withdraw the application at any time during its pendency.

**Article 12:** The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

Up to the time when the application is in order for grant, the applicant may amend the application but the amendment shall not go beyond the disclosure in the initial application. The applicant may up to the time when the application is in order for grant, divide the application into two or more applications " divisional applications " provided that each of divisional application shall not go beyond the disclosure in the initial application and shall be entitled to the filing date and where applicable, the priority date of the initial application.

The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention as mentioned above shall not be a ground for the invalidation of the patent.

**Article 13:** The application may contain a declaration claiming the priority as provided for in the Paris Convention for the Protection of Industrial Property, of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any state party to the said convention.

Where the application contains a declaration of priority, the Registry may request that the applicant furnish, within the prescribed time

limit a copy of the earlier application certified as correct by the Office with which it was filed. The effect of the said declaration shall be as provided in the Paris Convention. If the Registry finds that the requirement under this Article and the Regulations pertaining thereto have not been fulfilled, the said declaration shall be considered not to have been made.

**Article 14:** The applicant shall, at the request of the registry, furnish the date and number of any application for a patent filed in foreign country particularly relating to the same inventions as that claimed in the application filed in the Lao People's Democratic Republic; the documents relating to the one of the foreign applications are as following:

- (a) a copy of certified results of any search or examination carried out in respect of foreign application;
- (b) a copy of the patent granted on the basis of the foreign application; or
- (c) a copy of any final decision refusing the grant of patent requested in the foreign application.

**Article 15:** Where the application fulfils the requirements referred to in Article 11 of this Decree, the Registry shall accord as the filing date, the date of receipt of the application.

If the application did not fulfill the requirements referred to in the above paragraph, the registry shall invite the applicant to file the required correction and shall accord as the filing date, the date of receipt of the required correction but if no correction is made, the application shall be treated as if had not been filed.

**Article 16:** The application, after examination, fulfils that the all conditions of this Decree, the Registry shall notify the applicant to pay the prescribed fee, publishes to the public and issues a certificate of the grant of the patent.

In case of the application which has been refused the Registry shall notify the applicant of that final decision.

**Article 17:** A patent shall expire 20 years after the filing date of the application. In order to maintain the patent, an annual fee shall be paid in advance by the owner of patent.

- If an annual fee is not paid in advance by the owner of patent, the patent application shall be deemed to have been withdraw or the patent shall lapse.

- The Registry shall, unless the owner of patent has shown that circumstances caused the late payment, allow a period of grace of six months.

**Article 18:** The owner of patent shall have the right to exploit his patented invention by two alternatives:

(1) Making, importing, stocking, offering for sale, selling and using of product when the patent has been granted in respect of product;

(2) Using the process or doing any of the acts relating to the proceeding of making, importing, stocking, offering for sale, selling and using of product when the patent has been granted in respect of process.

**Article 19:** The owner of patent shall have the right to institute court proceedings against any person or legal entity who infringes the patent by performing, without his agreement but the rights shall not, before the grant of patent, extent to acts in respect of articles which have been put on the market by himself or by his consent or to the use of articles on any vehicle which temporarily enter the airspace, territory or waters in the Lao People's Democratic Republic or to any act done for experimental purposes.

**Article 20:** If the purpose of right and public interest of the Lao People's Democratic Republic in particular relating to the national security, nutrition, health or the development of any vital sector of the national economy or relevant body has determined that the manner of exploitation by the owner of the patent or his consent is an anti-competitive practice, the Government may designate a Government Agency or a third person to exploit a patented invention without the agreement of the owner of the patent but it shall be subject to the authorization of limited exploitation and to the payment to the said owner of an adequate remuneration.

**Article 21:** When the patented invention is not exploited or is insufficiently exploited after a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last, the Registry may issue a non-voluntary license if it is satisfied that, by working the invention locally or by importation in the Lao People's Democratic Republic, except if the owner of the patent satisfies the Registry that circumstances exist which justify the non-exploitation or insufficient exploitation of the patented invention.

The decision issuing the non-voluntary license shall fix the scope and function of license, the time limit within the licensee must begin to

exploit the patented invention, and the amount of the adequate remuneration to be paid to the owner of patent and the condition of payment.

The beneficiary of the non-voluntary license shall have the right to exploit the patented invention in the Lao People's Democratic Republic according to the term set out in the decision issuing the license and shall exploit the patented invention sufficiently.

If the invention claimed in a patent or " later patent " cannot be exploited in the country, and provided that the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent, the Registry, upon the request of the owner of the later patent, may issue a non-voluntary license to the extent necessary to avoid infringement of the earlier patent.

### SECTION III

#### PETTY PATENT

**Article 22:** For the purpose of this Decree a " petty patent " means the title granted to protect device whereas a " device " means a technical creation utilizing rules of natures.

**Article 23:** Any device shall be entitled for a petty patent if it is new and is industrially applicable and which relates to the shape or structure of articles or a combination of articles.

**Article 24:** The right to a petty patent applied under Article 8 and Article 9; the invention shall be excluded from the registration of petty patent applied under Article 10; the application for a petty patent and other procedures relating to the registration of device for obtainment of petty patent applied under Article 11, Article 12, Article 15 and Article 16 of this Decree.

**Article 25:** At any time before the consideration or grant of a petty patent, an applicant for registration of a device may convert his application into an application for a patent, which the Registry shall accord the filing date of the initial application.

At any time before the consideration or grant of a patent, an applicant for registration of an invention may convert his application into an

application for a petty patent, which the Registry shall accord the filing date of the initial application.

**Article 26:** A petty patent shall expire 7 years after the filing date of the application. In order to maintain the petty patent, an annual fee shall be paid in advance by the owner of petty patent.

- If an annual fee is not paid in advance by the owner of petty patent, the application for petty patent shall be deemed to have been withdrawn or the petty patent shall lapse.

- The Registry shall, unless the owner of petty patent has shown that circumstances caused the late payment, allow a period of grace of 6 months.

**Article 27:** The right to the owner of petty patent and the purpose of right and public interest of the Lao People's Democratic Republic applied under Article 18, Article 19, Article 20 and Article 21 of this Decree.

#### **SECTION IV INDUSTRIAL DESIGNS**

**Article 28:** For the purpose of this Decree an “ industrial design ” means any composition of lines or colors or any three-dimensional form, whether or not associated with line or colors, which can serve as a pattern for a product of industry or handicraft or give a special appearance to such a product, and appeals to and is judged by the eye.

**Article 29:** An industrial design is registrable if it is new.

An industrial design shall be new if it has not been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way, prior to the filing date, where applicable, the priority date of the application for registration.

**Article 30:** Industrial designs that are contrary to the national cultural morality and to public order shall not be registrable.

**Article 31:** The right to an industrial design shall belong to the designer or creator applied under Article 9 of this Decree.



**Article 32:** The application for registration of an industrial design shall contain:

- (1) A request;
- (2) Drawings, photographs or other adequate graphic representations of the article embodying the industrial design and an indication of the kind of products for which the industrial design is to be used;
- (3) It may be accompanied by a specimen of the article embodying the industrial design, where the industrial design is two-dimensional;

(4) Where the applicant is not the creator, the request shall be accompanied by a statement justifying the applicant's right to the registration of the industrial design.

- Two or more industrial designs may be the subject of the same application, provided they relate to the same class of the international classification or to the same set or composition of articles.

- The application, at the time of filing, may contain a request that the publication of the industrial design, upon registration, be deferred for a period not exceeding 12 months from the date of filing or, if the priority is claimed, from the date of priority, of the application but during the period of deferment of publication the owner does not have the right to institute court proceedings against any person or legal entity who infringes his industrial design.

- The applicant may withdraw the application at any time during its pendency.

**Article 33:** Where the application complies with the requirements as defined in the Article 32 of this Decree, the Registry shall accord the time and date of filing and issues the receipt of the application.

If the application did not fulfill the requirements referred to in above paragraph, the Registry shall suggest the applicant to file the required correction and shall accord the time and date of filing, the date of receipt of the final required correction.

**Article 34:** The application, after examination, fulfils that the all conditions of this Decree the Registry shall notify the applicant to pay the prescribed fee and shall issue a certificate of the industrial design which shall be published to the public or shall be published by a request reflected the application for registration pursuant to Article 32 of this Decree.

In case of the application which has been refused the Registry shall notify the applicant of that decision.

**Article 35:** An industrial design shall expire 5 years after the filing date of the application and may be renewed for two continuous periods and each period takes 5 years where the application for renewal shall apply during 90 days before the expiry.

**Article 36:** The owner of industrial design shall have the right to transfer his registered industrial design to other persons for exploitation but the transfer of right shall require the agreement of the latter or shall be approved by the Registry of industrial design. The exploitation of registered industrial design means the making, selling and importing of articles relating to the industrial design.

**Article 37:** The owner of industrial design shall have the right to institute court proceedings against any person or legal entity who infringes the industrial design, without his agreement.

## **SECTION V MEASURES FOR INFRINGERS**

**Article 38:** Individual or legal entity shall be regarded as having violated the right under patent, petty patent and industrial designs if he or it has made use the invention and industrial design without the agreement of the owner.

The infringer of right as mentioned above shall be warned or be subjected to legal sanction in such a case according to the laws of the Lao People's Democratic Republic.

**Article 39:** The third person may apply to the Registry or institute court proceedings to cancel the registered patent, petty patent or industrial design which did not meet the requirements as defined in this Decree.

## **SECTION VI FINAL PROVISION**

**Article 40:** The Science Technology and Environment Agency is entrusted to coordinate with relevant Agencies for organizing the implementation and interpretation of this Decree into detailed regulations to ensure the effective control and drastic management of the activities.

**Article 41:** The Prime Minister's Office, Ministries, Identical Organizations, Provinces and Municipality shall be aware and strictly implement this Decree.

**Article 42:** This Decree shall enter into force on the date of its signature.

Vientiane, January 17<sup>th</sup> 2002

The Prime Minister

Boungnang VORACHITH